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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/068,857	02/11/2002	Dominique Loubinoux	248556US55 CONT	8967

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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

AFTERGUT, JEFF H

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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12/09/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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In re application of	:	
Dominique Loubinoux	:	DECISION
Serial No. 10/068,857	:	DISMISSING
Filed: February 11, 2002	:	PETITION
For: METHOD AND APPARATUS FOR THE	:	
MANUFACTURE OF COMPOSITE SHEETS	:	

This is a decision on the PETITION UNDER 37 CFR 1.182 filed on November 3, 2008

A reply brief was filed on July 30, 2008, which was denied entry by the examiner in a communication dated October 10, 2008. The examiner denied entry of the reply brief as being improperly signed.

The instant petition was then timely filed on November 3, 2008, and is before the Director of Technology Center 1700 for consideration.

The petition requests that the reply brief filed July 30, 2008 be entered.

The petition is DISMISSED given the submission of a corrected reply brief, as explained below.

DECISION

Signature requirements are governed by 37 CFR 1.33(b) and 37 CFR 10.18:

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A patent practitioner of record appointed in compliance with § 1.32(b);
- (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of § 1.4 (d), § 1.4 (e), or § 2.193(c)(1) of this chapter.

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

As can be seen from the above, each document filed in the USPTO must be properly signed. In the instant case, the transmittal letter accompanying the reply brief was signed, but the reply brief itself was not. The two are separate documents, and the provisions of 37 CFR 1.33(b) and 37 CFR 10.18(a-d) apply separately to both. The requirement for the reply brief itself to be signed cannot be waived.

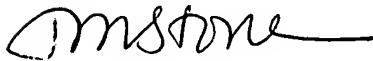
Consequently the reply brief was non-compliant under 37 CFR 1.33(b).

While procedures for dealing with an unsigned or improperly signed reply brief are not specifically spelled out in the MPEP, the MPEP does address the procedure for handling both unsigned or improperly signed amendments (714.01(a)) and unsigned appeal briefs (MPEP 1205.03). In both cases, applicant is to be notified that the paper is defective and given a one-month time period in which to ratify the document or submit a correctly signed version thereof.

Likewise in the instant case, applicant should have been notified of the missing signature and given an opportunity to correct this oversight, rather than simply being informed that the reply brief would not be entered, as was done. Reply briefs may at times be refused entry with no opportunity for correction if they are non-compliant under 37 CFR 41.41, but as noted above, applicants are generally to be given an opportunity to correct defects arising under 37 CFR 1.33(b).

Applicant included a signed version of the July 30, 2008 reply brief with the instant petition. The signed reply brief of November 3, 2008 is considered timely and will be entered into the file. The examiner is hereby instructed to consider the November 3, 2008 reply brief and take appropriate action in response thereto, per MPEP 1208(II). The examiner is further instructed to consider the reply brief to be timely filed.

Given that the signed version of the reply brief is entered, applicant's petition to enter the previous unsigned version is DISMISSED as moot.



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